

**BY-LAWS OF THE CITY PLANNING COMMISSION
OF THE CITY OF BATTLE CREEK**

**ARTICLE I
POWERS AND DUTIES**

The powers and duties of the City Planning Commission of the City of Battle Creek are those set forth in Act 33 of the Public Acts of 2008, as amended, together with those powers and duties delegated to it by Section 1.55 of the 1975 Compiled ordinances of the City of Battle Creek as approved, adopted pursuant to and in accordance with Act 285 of the Public Acts of 1931, as continued and amended by Act 33 of the Public Acts of 2008.

**ARTICLE II
MEMBERS**

Section 1. Membership. The Planning Commission shall consist of nine (9) members appointed by the Mayor, subject to the approval by a majority vote of the members of the City Commission elected and serving. Members may include the City Manager or a person designated by the City Manager, if any, the Mayor and one or more members of the City Commission, or any combination thereof, as ex officio members; however, not more than one-third of the members of the Planning Commission may be ex officio members. Except as provided in this subsection, an elected officer or employee of the local unit of government is not eligible to be a member of the Planning Commission. [MCL 125.3815 (1), (2) and (5).]

Members of a Planning Commission shall be qualified electors of the local unit, except that one Planning Commission member may be an individual who is not a qualified elector of the City. [MCL 125.3815 (4)(c).]

One member of the zoning board of appeals may be a member of the Planning Commission [MCL 125.3601 (4)]; however that member shall not participate in a public hearing on or vote on the same matter that they voted on as a member of the other board/commission. However the member may consider and vote on other unrelated matters involving the same property. [MCL 125.3601 (13)]

Members of the Planning Commission shall serve without compensation.

The term of each appointed member shall be three years or until his or her successor takes office. The terms of ex officio members shall correspond to their respective official tenures.

Section 2. Removal. The City Commission may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Nonfeasance may include chronic absenteeism which shall apply when a member misses more than four (4) meetings during one year of his or her term. Nonfeasance may also include abstaining from voting where either the City Attorney's Office has issued an opinion (verbal or written), or there has been a majority vote of the remaining members of the Planning Commission as set out in below Art. V, §9(c), that no conflict of interest exists. [MCL 125.3815 (9).]

Section 3. Vacancies. Any vacancy occurring in the membership of the Planning Commission shall be filled for the remainder of the unexpired term in the same manner provided for original appointments as set out in above Article II, Section 1.

ARTICLE III

OFFICERS AND THEIR DUTIES

Section 1. Selection. At the regularly scheduled meeting in January of each year, which shall be held on the fourth Wednesday of the month, the Planning Commission shall select from its membership a Chairperson, Vice-Chairperson and Secretary. All officers are eligible for re-election.

Section 2. Tenure. The Chairperson, Vice-Chairperson, and Secretary shall take office immediately following their selection and shall hold office for a term of one year or until their successors are selected and assume office.

Section 3. Chairperson. The Chairperson shall be elected from among the appointed members of the City Planning Commission. An ex officio member of the planning commission is not eligible to serve as chairperson. He or she shall preside at all meetings and hearings of said Commission and shall have and perform the duties usually incident to the office of the Chairperson. He or she shall decide, subject to these by-laws, all questions of order and procedure, unless otherwise directed by a majority of said Commission in session at the time, and shall have the privilege of discussing all matters before said Commission and of voting thereon.

Section 4. Vice-Chairperson. The Vice-Chairperson shall be elected from among the appointed members of the City Planning Commission, and shall act for the Chairperson in his or her absence. An ex officio member of the planning commission is not eligible to serve as vice-chairperson.

Section 5. Secretary. The Secretary shall be elected from among the members of the City Planning Commission. [MCL 125.3817 (1).]

Section 6. Other Duties. Other duties of the Chairperson, Vice-Chairperson, and Secretary shall be such as the City Planning Commission shall from time to time prescribe by formal action.

Section 7. Executive Secretary. The Director of Planning shall serve as the Executive Secretary to the Planning Commission. He or she shall keep a record of the resolutions, transactions, findings and determinations of said Commission, which record shall be a public record; shall prepare, under supervision of the Chairperson, the agenda for all regular and special meetings of said Commission; shall provide notice of all meetings of said Commission; and shall have and perform such other duties as are usually incident to the office of secretary.

All communications, petitions and reports shall be addressed to the Planning Commission and delivered or mailed to the Executive Secretary.

The Executive Secretary of the Planning Commission shall not be a member of said Commission, and shall have no voting privileges.

ARTICLE IV

NOMINATION AND ELECTION OF OFFICERS

Section 1. Term of Office. A candidate receiving a majority vote of the entire membership of said Commission shall be declared elected, and shall hold office for one (1) year, or until his or her successor shall take office, with eligibility for re-election.

Section 2. Vacancies. Vacancies in office shall be filled for the unexpired term by regular election procedure at the next regular meeting following such vacancy, or at a special meeting called for that purpose.

ARTICLE V

MEETINGS

Section 1. Open Meetings Act. All meetings of the City Planning Commission shall conform to the requirements of Public Act 267 of 1967, as amended, that being the Open Meetings Act.

Section 2. Number of Required Annual Meetings. The City Planning Commission shall hold not less than four (4) regular meetings each year.[MCL 125.3821 (1).]

Section 3. Regular Meeting Date. Regular meetings of said Commission shall be held on the fourth Wednesday in each month, at 4:00 p.m., in Room 302 of the City Hall, or at a designated place duly noticed. The Commission may also, by majority vote, deviate from the fourth Wednesday of the month in order to accommodate observed holiday periods or traditional vacation periods when annually approving the meeting calendar dates.

Section 4. Voting Requirements. A majority, or five (5) members of said Commission, shall be necessary to constitute a quorum, and must be present before business may be transacted. Provided, however, that an affirmative vote of at least six (6) members of the Commission shall be necessary for the adoption or amendment of the master plan.

Section 5. Special meetings. Special meetings of the Commission shall be held at any time upon call of the Chairperson, and shall be called by him or her upon written request of at least three (3) members of said Commission. All special meetings shall conform to the requirements of the Open Meetings Act. (P.A. 267 of 1976, as amended.)

Section 6. Notice. Written notice of the time, place and purpose of any special meeting shall be given to each member by the Secretary, not less than forty-eight (48) hours in advance of such meeting. [MCL 125.3821 (1).]

Section 7. Business Conducted Restricted. The business considered or transacted at any special meeting shall be restricted to that stated in the notice or call, unless by consent of at least five (5) members present at such meeting.

Section 8. Majority for Voting Purposes. Except as herein otherwise provided, when a quorum is present, a majority vote shall be sufficient to pass any motion or resolution at any meeting of said Commission.

Section 9. Conflict of Interest. A conflict of interest exists when a member of a public body has an economic, personal, or family connection to a matter before them which may prevent, or appear to prevent, an objective vote. The following shall apply in determining: whether a conflict of interest in fact exists; the obligations of a member with a conflict of interest, or a potential conflict of interest; and the consequences of failing to disclose a potential conflict, or abstaining from voting where there is no conflict of interest.

- (a) "Conflict of interest" shall be defined as a material financial interest, or where a member has a legal or fiduciary duty to another organization or entity, or personal relationship that may give the appearance of a conflict of interest in a matter presented for action. For purposes of this section, a "material financial interest" shall be defined as one in which the member will directly benefit in an amount exceeding \$250.00, or receive a benefit exceeding a fair market value of \$250.00 in a matter presented for action. [MCL 125.3815 (9).]
- (b) Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. If a conflict of interest in fact exists, then the member is disqualified from discussion or voting on that matter in his or her capacity as a Commission member.
- (c) Even if the member does not disqualify himself or herself based upon a conflict of interest, the member may be disqualified from discussion or voting on that matter in his or her capacity as a Commission member by a majority vote of the remaining members of the Planning Commission.
- (ed) Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office.
- (e) Abstaining from voting where either the City Attorney's Office has issued an opinion (verbal or written), or there has been a majority vote of the remaining members of the Planning Commission as set out in above subsection (c), that no conflict of interest exists, constitutes nonfeasance in office.

Section 10. Robert's Rules of Order Govern. Parliamentary practice at the meetings of said Commission shall be governed, where applicable, by Roberts Rules of Order, except where in conflict with the laws of the State of Michigan, the Charter or ordinances or the City of Battle Creek, or these by-laws.

ARTICLE VI

ORDER OF BUSINESS

The order of business at all regular meetings of the City Planning Commission, as far as practicable, shall be as follows:

1. Call to order.
2. Roll call.
3. Correction and approval of minutes of previous meeting.
4. Correspondence.
5. Additions to the Agenda.
6. Public Hearings.
7. Old Business.
8. New Business.
9. Comments by the Public.
10. Comments by the Members.
11. Adjournment.

This order of business may be changed at any time upon consent of a majority of members present.

ARTICLE VII

COMMISSION BUSINESS

Section 1. Planning Commission Matters. The following matters shall be presented for consideration in a meeting of the City Planning Commission:

- (a) Preparation and adoption of a master plan for the physical development of the City, including any areas outside of its boundaries which, in said Commission's judgment, bear relations to the planning of the City, or the adoption of any part or extension thereof, or amendment or addition thereto. Any resolution adopting or revising the master plan shall refer expressly to the maps and narrative and other matter intended by said Commission to form the whole or part of the plan, and the action taken shall be recorded on the map and plan and narrative matter by the identifying signature of the Executive Secretary of said Commission. An attested copy of the plan or part thereof shall be certified to the City Commission and to the County Register of Deeds.
- (b) Petitions and staff proposals for changes in the Zoning Ordinance and for Special Use Permits.
- (c) Preliminary plans and reports for the physical development of the City, including the general location, character and extent of streets, viaducts, bridges, parks and open spaces, the general location of public buildings and other public property, the general location and extent of public utilities and terminals.
- (d) The removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any public way, grounds, open spaces, buildings, or properties.

- (e) The general character, extent and layout of the replanning and redevelopment of blighted districts and slum areas.
- (f) Land subdivision plans.
- (g) All planning reports and plans for publications.
- (h) All capital improvement programs for the City.
- (i) The annual written report to the City Commission concerning its operations and the status of planning activities, including recommendations regarding actions by the City Commission related to planning and development. [MCL 125.3817 and 125.3819.]
- (j) Such matters as the Executive Secretary shall find advisable or essential to receive consideration by the Planning Commission.

Section 2. Commission Business Not Limited By Section 1. Section One of this Article shall in no way limit the business of the Commission.

ARTICLE VIII

EMPLOYEES

The City Commission may appoint such employees as it may deem necessary for the Planning Commission's work, whose appointment, promotion, demotion, and removal shall be subject to the same provisions of the law as govern other corresponding civil employees of the City of Battle Creek. The City Commission may also contract with City planners, engineers, architects, and other consultants for such services as it may require. The expenditures of said Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the City Commission, which shall provide the funds, equipment, and accommodations necessary for the Commission's work. [MCL 125.3825 (1).]

ARTICLE IX

PUBLIC HEARINGS

Section 1. Public Hearings; Notice. The Planning Commission shall hold a public hearing in the following instances:

1. Adoption or amendment of the master plan or any part thereof.
2. Considerations of Special Use Permits.
3. Consideration of Zoning Code Amendments.

Notice of the time and place of the hearing shall be given, according to Michigan statute.

Section 2. Other Public Hearings. In addition to those public hearings required by law, the City Planning Commission may, in its discretion, hold public hearings when it deems such hearings to be in the best interest of the public.

Section 3. Notice. Notice of such hearings shall be published in the official newspaper of the City, or in a newspaper of general circulation, at least fifteen (15) days prior to such hearing.

Section 4. Presentations Before Planning Commission. Matters of business before the City Planning Commission shall be presented in summary by the Chairperson, or by a member of said Commission, as designated by the Chairperson. Any interested spokesperson may address the Commission, consistent with Robert's Rules of Order.

ARTICLE X **AMENDMENTS**

These by-laws may be altered or amended by a two-thirds vote of the entire membership of the City Planning Commission, notice of hearing having been given in writing of the proposed alteration or amendment at a previous meeting of said Commission.